

THE AMERICANS WITH DISABILITIES ACT - THE ADA

ADA BENEFITS

The ADA will provide tremendous opportunities for those people who use the ADA to their fullest extent. For people with a hearing loss, the ADA can provide access to a whole new world of communications by opening up the telephone system and providing consideration in virtually all areas where hearing assistance is required. It will not be automatically presented to you. The ADA specifically requires that you have to identify your need and ask for the assistance. Business will have the opportunity to provide many more products and services to millions of people who would otherwise not be able to communicate with or enjoy those businesses products and services.

WHAT IS THE ADA?

The Americans with Disabilities Act (ADA) of 1990 is revolutionary Civil Rights legislation designed to protect the civil rights of people who have physical and mental disabilities. The ADA provides individuals with disabilities the right to participate in and enjoy goods and services, privileges, benefits and accommodations offered to the general public. The information contained in this section is oriented toward people who have hearing or speech disabilities.

Disclaimer: (The following information was obtained from various sources including a publication produced by the American Hotel & Motel Association with a grant from the US Department of Justice Civil Rights Division. This information is very general and is provided for the readers convenience and is not rendered as legal advice. Specific questions should be addressed to your own legal advisors.)

The ADA consists of five parts:

Title I- Employment

Prohibits discrimination against qualified individuals with disabilities with regard to employment.

Title II - Public Services

Prohibits discrimination in the programs, services, or activities of public entities including state, county, municipal and local governments and public transportation systems operated by public entities.

Title III - Public Accommodations and Commercial Facilities

Requires that businesses or organizations that provide products, services or amenities to the public must provide reasonable accommodations to allow individuals with disabilities to have equal access to those products, services and amenities. Examples of public facilities are hotels and motels, hospitals and health care facilities, restaurants, department stores, convenience stores and specialty stores, resorts and resort condominiums. Religious organizations and private clubs not providing access to the public are exempted from Title III. Title III mandates among other things, the provision of auxiliary aids and services at no expense to the person with the disability.

****LAWSUITS** for non-compliance with the ADA can be filed effective January 26, 1993 against any business with 10 or fewer employees and gross receipts of \$500,000 or less.

Title IV - Telecommunications

Requires telephone companies to make relay services available to people with speech or hearing impairments.

Title V - Miscellaneous

This section ties the ADA to the Civil Rights Act of 1964 and includes various legal and technical provisions.

WHAT IS A DISABILITY?

A person is considered disabled if they have a physical or mental impairment that substantially limits one or more major life activity.

Examples of major life activities:

caring for one's self	performing manual tasks
walking	seeing
hearing	breathing
learning	working

WHAT ARE THE ISSUES?

TITLE I: Employers must provide an otherwise qualified employee reasonable accommodations and/or assistive equipment to allow them to perform their job. They may not discriminate against or otherwise inhibit promotions based upon a disability.

TITLE II: Government and other public offices must make their services and facilities available to all members of the public.

TITLE III: All public accommodations shall be accessible to people with disabilities and that auxiliary aids and accommodations be made available. There are 12 general categories of public accommodation listed in the ADA:

- Places of lodging
- Places serving food or drink
- Places of exhibition and/or entertainment
- Places of public gathering
- Sales or rental establishments
- Service establishments
- Stations used for specified public transportation
- Places of public display or collection
- Places of recreation
- Places of education
- Social service center establishments
- Places of exercise or recreation

Anything offered to the public must be made available to everyone regardless of disability status. A public accommodation may not impose the cost of complying with the ADA through surcharges paid only by individuals with disabilities.

WHAT ARE AN INDIVIDUAL'S RIGHTS UNDER THE ADA?

You may not be charged a fee to use an assistive device or any other accommodation provided under Titles I, II, or III. You may not be retaliated against for asking to use an assistive device.

Employers, government offices and government agencies, and public accommodations must provide reasonable accommodations by providing assistive equipment and must make reasonable modifications in their policies, practices, and procedures when necessary to afford individuals with disabilities access to their goods, services, facilities, and privileges unless the modifications would fundamentally alter the nature of the goods or services, facilities or privileges provided or cause an undue burden which must be proven by the employer, business or government office.

A hearing impaired individual has the right to the same effective communications services and benefits that are equal to those provided to other people. Some examples are:

EMPLOYERS: It is a reasonable accommodation to provide amplified telephones, or amplified telephone ringers or visual ring indicators, TDDs or Text Telephones to people with hearing losses to use the telephone. In meeting or conference rooms, it is reasonable to provide personal or wide area amplification systems. Certain public pay telephones must be amplified and TDD accessible. Work areas and common areas must be protected by visual smoke detectors.

HOTELS, MOTELS, RESORTS: The following must be provided in a guest room when requested by a guest: a text telephone (TDD), a closed caption TV decoder, a visual alarm smoke detector, visual door knock alerting device, visual telephone ring signaler, a flashing or vibrating wake up device, and an amplified telephone. The front desk must also have a TDD. Public Pay telephones must be TDD accessible. Meeting and convention centers must have wide area amplification systems and individual receivers available on request. Lack of knowledge of the law is not an acceptable excuse for not having the equipment nor is some future plan to get the equipment. All hotels are well past any grace period allocated for acquisition of the equipment.

HOSPITALS AND HEALTH CARE FACILITIES: The following are reasonable accommodations in a hospital room and must be supplied by the hospital upon request: a TDD, an amplified telephone, a telecaption decoder, a TV listening system, a personal amplification system. The emergency room must have a TDD. Meeting rooms and public areas must have wide area amplification systems available on request. Public Telephones in the emergency room, the surgery waiting area and the maternity waiting area must be TDD accessible.

GOVERNMENT OFFICES AND AGENCIES: Public meeting rooms must provide wide area amplification systems. Their office telephone systems must be accessible to TDD users. Public telephones must be TDD accessible.

OTHER PUBLIC ACCOMMODATIONS: Any facility other than a religious facility must provide assistive equipment and modify policies and procedures similar to the above in order to make their products, services and amenities accessible to people with a hearing or speech loss. Such accommodations include TTYs, pay telephones with TTY access, wide area amplification, interpreters, visual alerting systems, counter top systems, etc.

WHAT ARE THE PENALTIES FOR NON-COMPLIANCE?

Title III of the ADA allows individuals with disabilities to bring civil law suits against any public accommodation that does not provide equal access. Private parties are empowered to bring lawsuits to obtain court orders to provide auxiliary aids or services, procedures to stop discrimination, or to modify facilities which are not accessible.

The Justice Department may impose civil penalties of up to but not to exceed \$50,000 for a first violation and up to \$100,000 for each subsequent violation.

Individuals may bring negligence liability lawsuits against parties for personal injuries that would have been avoided had assistive equipment been provided per the ADA.

@1993 HITEC Group International, Inc.